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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,509	03/29/2001	Dennis Sunga Fernandez	FERN-P001C	8530

22877 7590 12/21/2005

FERNANDEZ & ASSOCIATES LLP
1047 EL CAMINO REAL
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MENLO PARK, CA 94025

EXAMINER

VO, TUNG T

ART UNIT	PAPER NUMBER
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2613

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/823,509

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung Vo

Art Unit

2613

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 03 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 1-19.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.


Tung Vo
Primary Examiner
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Response to Arguments

1. Applicant's arguments filed 11/03/2005 have been fully considered but they are not persuasive.

The applicant argued that Hollenberg does not teach object identifier representing one or more goods in production, inventory, and shipment; a first object location and a time monitored provided by a detector, and second a second location and time monitored provide by sensor; and Wash does not teach "data structure... accessible for object-monitoring fro only one or more specified network site or processor", pages 6-9 of the remarks.

The examiner respectfully disagrees with that applicant. It is submitted that Hollenberg teach an object identifier (2b of fig. 4) representing one or more goods in production, inventory (6h, 6i, 3e.... of fig. 4; Note an information system with which a shopper can better serve himself or herself by, for example, determining product availability by querying a store's inventory, determining the price of products using a handheld multiple-use electronic device which includes a bar-code reading device, and electronically paying for the selected merchandise without requiring assistance from store personnel); a first object location and a time monitored such at location (32a-32c of fig. 1) provided by a detector (a detector as the transceiver A is stationary at a location and has a time wherein system (transmitter)for locating a transponder (receiver) using a satellite positioning system time signal as gating pulse for subsequent position determination by other receivers) coupled to the console-processing unit (2b of fig. 4); a second object location and a time monitored at such location (2c and 14k of fig. 6; Note wherein the portable device is mobile in a location and has a local time different from the first object location

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and time monitored) provided by a sensor (camera, 9m of fig. 9). In view of the discussion above, the claimed features are unpatentable over Hollenberg.

Walsh teaches an order processing element (11 of fig. 1, Note the order processing element 111 includes memory locations for inventory, user information, **delivery schedules**, accounting information and the like, wherein the assigned memory locations in order processing element 111 may include e.g. user profiles such as account numbers, user device numbers and authentication codes and language preference (e.g., Spanish, English or Russian and the like) and includes e.g. prior ordering history; inventories of goods or services that can be ordered; delivery schedules (shipment schedules); and invoice, billing and collection histories) for identifying shipment and access means (120 of fig. 1, note the user device is highly versatile and provides simple, rapid, secure and encrypted, self-correcting, error-free, inexpensive, handheld unit to access, control, instruct, command, and query a host server) processes data structure securely using a digital certificate, watermark or encryption key (wherein the host server (110 of fig. 1) and the handheld device (120 of fig. 1) provide a method for establishing a bi-directional, secured, confidential, private and error-free telecommunication path to a host server and for commanding the host server along that communication path to encode, encrypt and transmit sensitive information in a secure manner to a host handheld low power user device), such that is accessible for object-monitoring only one or more specified network site ("Multimedia presentation" is intended to mean that the host server may be accessed using the user device and method of the invention) or processor (110 of fig. 1). In view of the discussion above, the claimed features are unpatentable over Walsh.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tung Vo
Primary Examiner
Art Unit 2613